FOR MYSORE STATE

HOME (1953) Department.

MS SERIES.

Passed

G.O. NO. 8

Dated 2-1-53 ~~2-1-53~~

[Despatch Abstract.]

COURT - Fees Act, 1870 - Court fees stamps purchased by Sri K.K.Shetty in connection with a plaint presented in the District Munsif's Court, Hosdr[redacted]

Refund of value - Sanctioned.

Revenue Department.

Subject:- Stamps- spoilt- punched in the Court- refund applied for-

Refce.L.8207/52-2

Madras dated 17-11-52.

From

Sri C.S.Krishnamurthi, I.A.S.,
Joint Secretary, Board of,Revenue, Madras.

Sri V.N. Kudva, I.C.S.,Commr. of Comml. Taxes.

Read:-

i. Government Endt.No.135099-Courts-II/52-1 dated 26-7-52.

ii. From the Collector of South Kanara, L.Dis.20614/52 d/ 30-9-52.

Reference:-

A copy of petition from one Sri K.K. Shetty and a copy of certificate under Section 151 of the Civil Procedure Code are submitted.

2. The Board recommends the grant of ex-gratia refund in respect of the court fee stamps of the value of Rs.337- 7-0 subject to the usual deduction of one anna in the rupee.

for Joint Secretary.

To the Secretary to Government, Home Dept. with enclosures.

amk. 18/1

216893.

Application from Sri K.K. Shetty, clerk of N.K. Nambiar, Advocate, Hosdrug, Kasaragod Taluk, Post, Kanhangad, South Kanara Dt d/ 18th July, 1952:-

Sub:- Refunds- Spoilt stamps- claim of refund of spoilt judicial stamps-

1. In enclosing an application for refund of spoilt stamps valued Rs.337-7-0, I submit that as per instruction of client Sri Karya Ambu Nair, I purchased judicial court fee stamp paper worth Rs.300-0-0 on 27-7-1951 and affixed to it court fee labels worth Rs.37-7-0 for preparing a plaint on behalf of the said Sri Karya Ambu Nair. The said plaint was duly completed and signed by the party and filed in the court of District Munsiff, Hosdrug.

2. Before numbering the plaint in the court the suit was compromised by the parties. The stamp paper with stamps affixed thereon was defaced in the court in its usual course of work and a certificate under Section 151 of the Civil Procedure Code was issued from the court to this effect to claim the refund as per decision reported in "63 Law Weekly Page 180".

3. As the stamps were purchased by me the refund has been claimed by me under the Act. The defaced stamps were not returned from the Court as it issued a certificate on the subject. If the stamps are required for refunding the value under the Stamp Act, I was informed that the court will send them if called for from Government of Madras.

4. Hence only the certificate issued from the Court has been enclosed. I request the sanction may kindly be accorded to refund the value of the stamps after deducting the discount as per rules.

(sd) xx
xxxx Applicant.

P.T.O.

Certificate under Section 151 of the Civil Producedure Code.

Read:- 1) R.I.A.No.3045/51 and affidavit dated 15-11-51 of Karya Ambu Nair (Plaintiff)- petitioner.

ii) Other connected papers.

iii) Decision reported in 63 Law Weekly 180.

Certified that the plaint presented by the plaintiff, above mentioned, was stamped with court fees of Rs.337-7-0 that the plaint has not been numbered and that the stamps have been defaced by this Court's office in the usual course of work.

(sd) xx
District Munsiff's

District Munsif's Court, Hosdrug.
S.K. dated 12th April xxxxxx 1952.

Copy to Karya Ambu Nair (Plaintiff -petitioner.
nephew of Raman Nair, residing at Pallaikare in Nileshwar village,
Kasaragod Taluk, through his Advocate, Sri M.K. Nambiar, Hosdrug, S.K.

(True copy)

for Joint Secretary.

amk. 18/11.

URGENT

Home Deptt.

T. M.

216893/52.

From

The Additional Deputy Secretary to Govt.,
Home Department.

To

The Joint Secretary, Board of Revenue,
Madras.

Court Fees Act – Court fees stamps purchased by Sri K.K. Shetty in connection with a plaint presented in the Ot. Munsif's Court, Hosdrug – Refund of value.

Ref:- From the Board of Revenue No. L 8207/52-2 dt. 17-11-52.

Please send a copy of the letter No. L. Dis 20614/52 dt. 30-9-52 from the Collector of South Kanara referred to in the Board's letter cited

24-XI-1952

P.C. to go.
R.D. 28-11-52.

Revenue Department.
Subject.

Court Fees Act - Court Fees Stamps purchased by Sri K.K. Shetty in connection with a plaint presented in the District Munsif's Court, Hosdrug - Refund of value.

Madras. Bd's Ref.L.No.8207/52-3. Dated:-5-12-1952.

Sri V. N. Kudva, I.C.S., Commissioner of Commercial Taxes.
Sri C. S. Krishnamoorthy, I.A.S., Joint Secretary, Board of Reven

Read:- From the Government, P.C. of Telephonic Message, dated 24-11-1952.

REFERENCE:--

A copy of letter L.Dis.No.20614/52, dated 30-9-1952 from the Collector of South Kanara, is herewith submitted.

for Joint Secretary.

To The Secretary to Government, Home Department, Madras.
with encls.

rm.5/12.

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Copy of Letter L.Dis.20614/52, dated 30-9-1952, from the Collector of South Kanara.

ub:- Stamps - Spoilt stamps (South Kanara District) Punched in the Court - Refund applied for - Report submitted -

Ref:- Board's Ref.L.No.8207/52-1, dated 2-8-1952.

The enquiries made in this case reveals that one Kari Ambu Nair of Nileshwar village filed a suit in the court of the District Munsif Hosdrug on 28-7-1951 against one Chattayil Abdul Aziz of Nileshwar using judicial court fee stamps of Rs.337-8-0. The plaint was not entertained for want of jurisdiction. On 10-1-1952 in R.I.A.3045/51 a refund certificate was issued by the Dt. Munsif in favour of the plaintiff. Confidential enquiries show that the case between the two parties was settled out of court and the plaintiff has not received the value of the spoilt stamps from the defendants or from any other source.

True copy.

for Joint Secretary.

rm.5/12.

Finance dept.

9

28.2.11

216893/52. G.O. Ms No 8 dt. 2.1.53.

Court-Fees Act, 1870 – Court fees Stamps purchased by Sri K.K. Shetty in connection with a plaint presented in the Ist Munsif's Court, Hosdrug – Refund of value – Sanctioned.

Read:-

pt of f. From the Board of Revenue No. L 8207/52-2 dt. 17-11-52
p 7 of f. No. L-8207/52-3 dt 5-12-52

ORDER.

The Government sanction the refund to Sri K.K. Shetty, Clerk of Sri N.K. Nambiar, Advocate, Hosdrug of a sum of Rs. 316-6-0 (Rupees three hundred and sixteen and annas six only) being the value after deducting one anna in the rupee, of the Court-fees stamps purchased by him on behalf of Sri Karya Ambu Nair of Nileshwar village, for a plaint filed in the Ist Munsif's court, Hosdrug against one Chittayil Abdul Aziz, but which were rendered useless as the case was settled out of court between the parties before the plaint was numbered in the court.

337-7-0
21-1-0
316-6-0

Collector's letter on p 7 of f.

dt 9.12.1952

2nd 5.1.53

To

The Board of Revenue, Madras

The Regr., High Court, Madras (with copies of pp 1-4 and of 7 of f.)

The Collector of South Kanara.

The Accts Genl., through the Finance dept.

Sri K.K. Shetty, Clerk of Sri N.K. Nambiar, Advocate, Hosdrug, Kasargod taluk, South Kanara.

(Copy to S.T.)

Added

2168 93/52 — Court Fees Act – Court fees stamps purchased by Sri K.K. Shetty in connection with a plaint presented in the Dt. Munsiff's Court, Hosdrug – Refund of value – Request.

p1 of. — From the Board of Revenue No. L 8207/52-2 dt. 17-11-52
p5 of. — Issued as T.M. dt. 24-11-52
p7 of. — From the Board of Revenue No. L 8207/52-3 dt. 5-12-52

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extract p.3 of. — In his petition dt. 18-7-52, Sri K.K. Shetty, Clerk of Sri N.K. Nambiar, Advocate, Hosdrug stated that as per instructions from their client Sri Kanya Ambu Nair, he purchased full Court fee stamps paper worth Rs. 300/- on 27-7-51 and affixed to it court fee labels worth Rs. 37-7-0 for preparing a plaint on behalf of Sri Kanya Ambu Nair. The

para 1, ibid — said plaint was duly completed and signed by the party and filed in the Court of the Dt. Munsiff, Hosdrug

para 2 ibid — Before numbering the plaint in the court, the suit was compromised by the parties. The stamp paper with stamps affixed thereon was defaced in the court in its usual course of work and a certificate

Copy at p.4 of. — under Sec. 151 of the Civil Procedure Code was issued from the Court to that effect to the party for claiming

para 3, p 3 of — refunds. The petitioner stated that, as the stamps were purchased by him the refund had been claimed by him under the Act, and that the

ibid — defaced stamps were not returned from the Court as it issued a refund certificate. He therefore requested

para 4, ibid — sanction for ~~that sanction might kindly be accorded~~ the refund of the value of the stamps after deducting the discount as per rules.

2. Refund of Court-fees is governed

* Extract at (E) — by S.O. No. 97 of the Stamps Manual. The Collector

of A ibid — may sanction the refund of the value of impressed

M — Court fees stamps spoiled or rendered useless within

(a) ibid — Six months from the date on which they were purchased. In special cases, the Board of Revenue may allow refunds when the application is made within

one year either from the date of purchase as from the date on which they were spoiled or rendered useless. As the stamp paper and the court fees stamps were purchased on 27-7-51 for preparing the plaint which was filed later and as the Board of Revenue was competent to allow the refund of the value of the court fees stamps, the petition received by the Govt was transferred to the Board of Revenue for disposal.

2. The Board of Revenue has now recommended the grant of ex-gratia refund in respect of the court fee stamps of the value of Rs. 337-7-0 subject to the usual deduction of one anna in the rupee. In his letter dt. 30-9-52 addressed to the Board of Revenue, the Collector of South Kanara has stated that the enquiries made in this case reveal that one Kari Ambu Nair of Nileshwar Village filed a suit in the court of the st. Munsiff, Hosdrug on 28-7-51 against one Chattayil Abdul Aziz of Nileshwar using judicial stamps of Rs 337-8-0. He has stated that the plaint was not entertained for want of jurisdiction, and that on 10-1-52 a refund certificate was issued by the st. Munsiff in favour of the plaintiff and that confidential enquiries show that the case between the two parties was settled out of court and plaintiff has not received the value of the spoilt stamps from the defendants or from any other source.

3. There is no provision in the Stamp Manual Standing Orders for refund in cases of this kind. But it has been held that the Govt can sanction the refund in any case where they feel that such a refund is expedient, though the party cannot claim it as a matter of right and that individual cases should be considered on merits. The refund in this case, if sanctioned will be subject to the usual deduction of one anna

contd. p. 2

extract at (E).

in the rupee with reference to S.O. No. 47 of the Stamp Manual.

5. Solid for orders whether in the circumstances stated in paras 3 and 4 at pp 2-3 above the recommendation of the Board of Revenue may be accepted and the refund may be sanctioned in this case. If so the draft order solid below is for approval. Finance may see for acceptance.

ADDL. DEPUTY SECRETARY TO GOVERNMENT
92728
10 DEC 1952
FINANCE DEPARTMENT

9.12.1952

Fin

Home dp
93067
216893 Ch II/52
9/12/52

9.12.52

Fin (Exp)

The draft order below may be accepted

22.12.52

23.12.52

26/12/52

Home

Fin no. 92728/B-1

9.12.52

Home accpt.

The draft order below may now issue.

29.12.52

29.12.52

29/12/1952

AD S II

30/12/52

ADS II

GCJ

(Issued as G.O. Ms. No. Home dt. 2-1-53)

243592

29.12.52